INDEX.

	Page.
Reference to official report	1
Statement of ground of jurisdiction	1
(1) Date of judgment to be reviewed	1
(2) Specific claims advanced and rulings made in the lower court	1
(3) Reference to statute under which the jurisdiction of this court is invoked	2
(4) References to cases believed to sustain the jurisdiction of this court	2
Statement of the case	2
Statutes material to the case	6
Specification of assigned errors intended to be urged	8
Summary of argument	9
Argument	10
1. A state may not, under the guise of an excise on the privilege of doing a local business, impose a tax upon a foreign corporation which directly or indirectly reaches property not within the jurisdiction of the state imposing the tax	10
2. The inclusion of the stock of A. C. Lawrence Leather Company and National Calfskin Company among the assets employed by the plaintiff in error in business in Massachusetts for the purpose of measuring the corporate excess of the plaintiff in error taxable in Massachusetts was in effect the imposition of a tax upon such stock	12
3. The stock of A. C. Lawrence Leather Company and National Calfskin Company owned by the plaintiff in error was not within the jurisdiction of Massachusetts	14
(*a*) A corporation has its domicile in the state which created it, and even if its prin-	

Page.

cipal, or only, place of business is in another state, it is still a foreign corporation within such state 14

(*b*) The primary situs of stock in a corporation is the domicile of the stockholder, and when one corporation owns stock in another, the situs of the stock so held is the state in which the corporation owning the stock was organized 14

(*c*) There are numerous cases in which the rule of mobilia sequuntur personam as applied to certain classes of intangible property has yielded to business situs; but the principle of business situs has hitherto never been applied to the stock of corporations 15

(*d*) The only plausible ground upon which it can be contended that the plaintiff in error is taxable on the stocks of the two other foreign corporations is that most of the assets of these corporations were located in Massachusetts and most of their business was carried on in that commonwealth 17

(*e*) Jurisdiction for tax purposes over the shares of a foreign corporation owned by a non-resident cannot, however, be made to rest on the situs of the corporate property or the doing of the corporate business within the taxing state 18

(*f*) The "corporate fiction" cannot constitutionally be disregarded and the plaintiff in error treated as the owner of the property of its subsidiaries or as carrying on business through them as its agents because it owns all of their corporate stock, when such

Page.

a course is not necessary to do justice, but will work gross injustice by taxing the same property twice 19

4. The decision of the Supreme Judicial Court of Massachusetts rests upon a misconstruction of the statute which, if controlling, renders the statute clearly unconstitutional 22

LIST OF CASES CITED.

A. C. Lawrence Leather Co. v. Commonwealth, 254 Mass. 609 21
Alpha Cement Co. v. Massachusetts, 268 U.S. 203 12
Bank of Augusta v. Earle, 13 Pet. 519 14
Berger & Engel Brewing Co. v. Dreyfus, 172 Mass. 154 14
Boston Investment Co. v. Boston, 158 Mass. 461 14
Bristol v. Washington County, 177 U.S. 133 15
Cannon Mfg. Co. v. Cudahy Co., 267 U.S. 333 19
Chicago &c. Ry. Co. v. Minneapolis Civic &c. Assn., 247 U.S. 490 20
Clark v. Treasurer & Receiver General, 218 Mass. 292 16
Conley v. Mathieson Alkali Works, 190 U.S. 406 19
DeGanay v. Lederer, 250 U.S. 376 15
Delaware &c. R.R. Co. v. Pennsylvania, 198 U.S. 341 11
Gardiner v. Treasurer & Receiver General, 225 Mass. 354 20
Hawley v. Malden, 232 U.S. 1 14
Insurance Co. v. Francis, 11 Wall. 210 14
International Paper Co. v. Massachusetts, 246 U.S. 135 11
Kennedy v. Hodges, 215 Mass. 112 16
Liverpool Insurance Co. v. Orleans Board of Assessors, 221 U.S. 346 15
Loeb v. Columbia Township Trustees, 179 U.S. 482 2

Page.
Looney v. Crane Co., 245 U.S. 178 11
Marsch v. Southern New England R.R. Co., 230 Mass. 483 19
McCaskill Co. v. United States, 216 U.S. 504 20
Merrick v. Van Santvoord, 34 N.Y. 208 14
Metropolitan Life Insurance Co. v. New Orleans, 205 U.S. 395 15
New Orleans v. Stempel, 175 U.S. 309 15
People's Tobacco Co. v. American Tobacco Co., 246 U.S. 79 19
Peterson v. Chicago &c. R.R. Co., 205 U.S. 364 19
Philadelphia &c. Ry. Co. v. McKibben, 243 U.S 264 19
Pittsburg & Buffalo Co. v. Duncan, 232 Fed. 585 20
Rhode Island Trust Co. v. Doughton, 270 U.S. 69 14, 18, 22, 25
Salomon v. Salomon &c. Co., Ltd., [1897] A.C. 22 19
Scottish Insurance Co. v. Bowland, 196 U.S. 611 15
Seymour v. Spring Forest Cemetery Association, 144 N.Y. 333 20
Southern Railway Co. v. Kentucky, 274 U.S. 76 11
State Board of Assessors v. Comptoir Nationale D'Escompte, 191 U.S. 388 15
Sturgis v. Carter, 114 U.S. 511 14
Union Refrigerator Transit Co. v. Kentucky, 199 U.S. 194 11
United States v. Delaware &c. R.R. Co., 238 U.S. 516 20
United States v. Lehigh Valley R.R. Co., 220 U.S. 257 20
United States v. Reading Co., 253 U.S. 26 20
Welch v. Treasurer & Receiver General, 223 Mass. 87 16
Western Union Tel. Co. v. Kansas, 216 U.S. 1 11
Wright v. Louisville & Nashville R.R. Co., 236 U.S. 687 15

LIST OF AUTHORITIES CITED.

	Page.
Judicial Code, § 237 (*a*), as amended by the Act of February 13, 1925	2
General Laws, c. 59 § 5, 16	4
General Laws, c. 59, § 10	4
General Laws, c. 59, § 18, 2	4
General Laws, c. 62, § 1 (*b*)	8
General Laws, c. 63, § 30, 2, 4, (*a*), (*b*)	6
General Laws, c. 63, § 30, 4 (*b*)	21
General Laws, c. 63, § 31	7
General Laws, c. 63, § 39 (1), (2)	7
General Laws, c. 63, § 77	7
XXV Michigan Law Review, 278	22